(42)

HIGH COURT OF JUDICATURE CHHATTISGARH :: BILASPUR

SINGLE BENCH: HON'BLE SHRI S.R. NAYAK, CJ.

WRIT PETITION No. 5018 of 2005

PETITIONER		**Ramashankar Sethiya** Aged about 38 years, S/o Shri Bajrang Sethiya, Resident of Village Jhara, Tahsil, Kondagaon, District Bastar, (Chhattisgarh)
	Vs.	
RESPONDENTS	1.	State of Chhattisgarh Through Collector of Stamps Collector – Bastar, Jagdalpur
	2.	Chief Controlling Authority Revenue (Board of Revenue) Circuit Court, Jagdalpur Jagdalpur, Bastar, C.G.
	3.	Deputy Registrar (In-Charge) (For Registration of Land) Tahsil, Kondagaon, District Bastar (C.G.)
	4.	Tahsildar Tahsil, Kondagaon, District Bastar. C.G.

Present: Shri Prakash Tiwari, learned counsel for the petitioner.

Shri Sanjay S Agrawal, learned G.A. for the State.

ORAL ORDER
(Passed on 21st December 2005)

In this writ petition, the petitioner has assailed order of 2nd respondent, namely, Board of Revenue dated 29.04.2005 refusing to entertain the appeal preferred by the petitioner against the order of the Deputy Registrar (In-charge), Bastar, the third respondent herein. As per the regulations, 30 days time is prescribed to prefer an appeal to the 2nd respondent against the order passed by the 3rd respondent. At

the same time, the 2nd respondent is empowered with the power to condone the delay in filing the appeal, if sufficient cause is shown. Since the petitioner could not file appeal to the 2nd respondent within 30 days, the petitioner made an application seeking condonation of delay in preferring the appeal against order of the 3rd respondent dated 18.07.2003. In the application, it is stated that though the petitioner was a party and he was served with notice before the 3rd respondent in the proceedings, he was not present before the Deputy registrar, the 3rd respondent herein when the order was pronounced on 18.07.2003 and therefore, he was not aware of the said order. According to the petitioner, he came to know about the order of the 3rd respondent only in the month of October 2004, when on the basis of the order made by the 3rd respondent RRC proceedings were initiated and thereafterwords, the petitioner without further loss of time made an application on 04.10.2004 for certified copy of the order made by the 3rd respondent and the same was issued to him on 20.10.2004 and thereafterwards , he filed an appeal on 29.10.2004 with an application for condoning the delay. The application filed by the petitioner seeking condonation of delay in filing appeal is summarily rejected by the 2nd respondent , Board of Revenue solely on the ground that appeal was not preferred within 30 days from the date of the order as prescribed under the rules, without appreciating the cause shown by the petitioner in the affidavit filed in support of the application. The 2nd respondent, Board of Revenue has utterly failed to exercise the discretion vested in it in a judicious manner. The Board of Revenue is expected to

exercise discretion, appreciate the cause shown by an applicant seeking condonation of delay and pass appropriate orders.

(2) The facts stated Supra would show that the petitioner was prevented from good cause in preferring the appeal within the stipulated time of 30 days. In other words, the petitioner has shown sufficient cause for condoning the delay. In that view of the matter, I allow the writ petition, set aside the order of the 2nd respondent, Board of Revenue and allow application of the petitioner for condoning the delay in preferring the appeal to the 2nd respondent against the order of the 3rd respondent dated 18.07.2003 and the proceedings are remitted to the 2nd respondent with a direction to dispose of the appeal of the petitioner on merit expeditiously. It is further directed that respondent/State authorities including the 4th respondent shall defer the recovery proceedings pending decision of the 2nd respondent in the appeal preferred by the petitioner. There shall be no order as to costs.

Sd/-
Chief Justice